

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

v.

FELIPE CONFESOR ALMONTE-POLANCO,

Defendant.

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DECISION AND ORDER

18-CR-6125L

Defendant Felipe Confesor Almonte-Polanco (“defendant”), *pro se*, has filed two motions: (1) a motion (Dkt. #135) to reconsider this Court’s Order (Dkt. #131) affirming and accepting the Report and Recommendation of United States Magistrate Judge Mark W. Pedersen; and (2) a motion (Dkt. #136) for severance of Count 4 from the other counts of the Indictment. Both motions are denied. Defendant is now and has been throughout the proceedings represented by appointed counsel. Nevertheless, the defendant persists in filing *pro se* motions. “A defendant has a right either to counsel or to proceed *pro se*, but has no right to ‘hybrid’ representation, in which he is represented by counsel from time to time, but may slip into *pro se* mode for selected presentations.” *United States v. Rivernider*, 828 F.3d 91, 108 (2d Cir.), *cert. denied*, 137 S. Ct. 456 (2016). This Court therefore is under no obligation to consider *pro se* filings by this defendant who is represented by counsel. *See United States v. Tracy*, 989 F.2d 1279, 1285 (1st Cir 1993); *United States v. Jones*, 2016 WL 7336417, \*1 (W.D.N.Y. 2016).

Therefore, I deny both *pro se* motions because a defendant has no right to “hybrid” representation.

Even were I to consider the motions on the merits, I would deny them. As to this Court's Decision affirming the Report and Recommendation of Magistrate Judge Pedersen, I find no reason whatsoever to change or modify my decision. As to defendant's motion for severance of Count 4, it is also denied, although the Court would follow its consistent practice of bifurcating evidence relating to the defendant's prior felony convictions until after the jury has rendered a verdict on the other counts. *See Old Chief v. United States*, 519 U.S. 172 (1997); *United States v. Page*, 657 F.3d 126, 132 (2d Cir. 2011).

### CONCLUSION

Defendant's *pro se* motion (Dkt. #135) for reconsideration and defendant's *pro se* motion for a severance (Dkt. #136) are both in all respects DENIED.

IT IS SO ORDERED.

A handwritten signature in black ink, reading "David G. Larimer", written over a horizontal line.

DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
September 23, 2020.